

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Keith S. Morris,

Plaintiff,

Hon. Hugh B. Scott

04CV17A

v.

Decision & Order

New York State Department
of Correctional Services, et al.,

Defendants.

Before the Court is the plaintiff's motion to compel discovery (Docket No. 18).

The plaintiff, Keith S. Morris, commenced this action alleging that his rights under 42 U.S.C. § 1983 were violated when he was allegedly assaulted by at the Attica Correctional Facility by correctional officers on January 3, 2001. On June 29, 2005, the plaintiff filed the instant motions seeking to compel "Ms. Nelly Valentine, Assistant Director of Medical Records at the Metropolitan Hospital" to provide medical records. The plaintiff does not identify any discovery request in which he had requested these documents prior to moving to compel production.

The defendants note that Ms. Valentine is not a party to this action. Further, the defendants assert that they are aware of no discovery request made regarding the medical records from the Metropolitan Hospital or that the plaintiff was ever treated at the Metropolitan Hospital.

The motion to compel is denied.

The plaintiff has recently filed another “Motion for Discovery” (Docket No. 21) seeking a copy of his medical records regarding any treatment he received while at the Attica Correctional Facility from January 3, 2001 to January 3, 2001. The Court notes that once again, the plaintiff has not suggested that he has made a prior request for these documents from the defendants. It would appear that these documents may be relevant to the plaintiff’s claims in this case. The defendants are directed to construe this document (Docket No. 21) as a request for the production of the specified medical records. The defendants may require the plaintiff to execute an appropriate release authorizing the disclosure of the medical records.

So Ordered.

s/HBS

Hon. Hugh B. Scott
United States Magistrate Judge

Buffalo, New York
December 7, 2005